

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

CHEYENNE AND ARAPAHO TRIBES,

Plaintiff,

v.

LESLIE WANDRIE-HARJO, *et al.*,

Defendants.

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Case No. CIV-15-262-D

ORDER

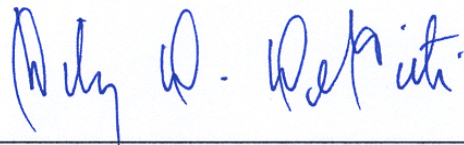
By Order of April 3, 2015, the Court ordered Plaintiff to show cause why this action should not be dismissed for lack of subject matter jurisdiction because the Complaint contained insufficient allegations to establish jurisdiction pursuant to 18 U.S.C. § 1163 and 28 U.S.C. § 1362, as asserted by Plaintiff. On May 7, 2015, Plaintiff filed an amended pleading that adds a claim against Defendant Leslie Wandrie-Harjo under the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §§ 1961-68, based on allegations that she and others engaged in a pattern of racketeering activity involving mail fraud and wire fraud, in violation of 18 U.S.C. § 1341 and § 1343 respectively. Without expressing any opinion as to the sufficiency of the First Amended Complaint to state a RICO claim, the Court finds that the claim is not so insubstantial as to warrant a finding that Plaintiff has failed to plead a basis for subject matter jurisdiction under 28 U.S.C. § 1362. *See Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 89-90 (1998) (“Dismissal for lack of subject-matter jurisdiction because of the inadequacy of the federal claim is proper only when the claim is ‘so insubstantial, implausible, foreclosed by prior decisions

of this Court, or otherwise completely devoid of merit as not to involve a federal controversy.’’’) (quoting *Oneida Indian Nation v. County of Oneida*, 414 U.S. 661, 666 (1974)).

Contemporaneously with filing the First Amended Complaint, Plaintiff filed a separate response to the show cause order with multiple attachments, totaling 79 pages. However, Plaintiff failed to provide a courtesy copy in a timely manner, as required by LCvR5.2(c) and the Court’s ECF Policies and Procedures Manual, § II.A.5. Thus, the Court finds that the filing should be stricken.

IT IS THEREFORE ORDERED that Plaintiff’s Response to Show Cause Order [Doc. No. 22] is stricken from the case record, but the case shall proceed under the First Amended Complaint.

IT IS SO ORDERED this 12th day of May, 2015.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE